REMARKS

Claims 1-87 are pending in this application, of which claims 1, 28, 29, 56, 57, 82 and 83 are independent. Claims 1, 14, 28, 29, 42 and 56 have been amended. Support for these amendments can be found in Applicants' Specification at page 23, lines 4-23. Claims 57-89 have been added. Support for these new claims can be found in Applicants' Specification at page 6, lines 20-29, page 23, lines 4-23, and page 19, line 5 to page 20, line 4. Reconsideration and further examination of the application is respectfully requested.

As an initial matter, claims 29-56 were rejected under 35 U.S.C. § 101 for reciting alleged non-statutory subject matter. Applicants have made appropriate corrections and request that the Examiner withdraw this rejection.

Cheng

Independent claim 1 was rejected under 35 U.S.C. § 102(b) as allegedly anticipated by Cheng et al. (US Patent No. 6,151,643; "Cheng"). Applicants submit that Cheng neither discloses nor suggests an updater application process including, with the updater application, "receiving in the client environment update instructions associated with the one or more identified update scripts, and updating the updater application in the client environment from an earlier version to a new version by storing the received update instructions," as recited in claim 1.

Cheng teaches updating at most software products with an updater application. Cheng states:

> The client application 104 displays 206 the list of applicable software updates to the user, for review and selection thereof of updates for purchase and installation. FIG. 4 illustrates a sample user interface display 400 of applicable software updates. This display 400 includes the name 401 of each software product identified on the client computer 101, and remarks 403 displayed next to the name indicating whether the software product is already up-to-date, that is, there are no applicable updates, or, if the product is not current, the list of applicable updates (which may be for the software product itself, or for related products) (column 7, line 62 to column 8, line 5).

> The update database 709 maintains information identifying a large number of software products, information about the software updates that are available from the diverse software product vendors for these software products, information for identifying software products installed on a client computer 101, and for unique distinguishing the versions and names of installed software products (column 10, lines 26 to 32).

In sum, Cheng teaches an update database 709 that maintains information about the software products, and a client application 104 to execute the updating of the software products.

In contrast, claim 1 recites not only updating software products, but also updating the updater application itself. In this regard, Cheng is silent on any feature, as described in Applicants' Specification, that, for example:

> By modifying, adding to, or deleting instructions in the update scripts 240, the updater 200 can be customized, e.g., in response to update information received from an update server. The update server can provide customized instructions that can be identified, downloaded, and included in the update scripts 240 by the update manager 230. For example, the customized instructions can specify and update-specific update process or user interface. In addition, the customized instructions can schedule update requests to avoid periods of maintenance or high demand at the update server, or to synchronize update requests with a release of a new product. Furthermore, the customized instructions can customize a client to request update information from particular servers or to balance load of update servers. For example, the customized instructions can specify how to select an appropriate update server from multiple servers, or redirect the client to another server for available updates or other software products (page 12, lines 12-23).

Cheng does not teach, for example, customizing the user interface or update scheduling by receiving instructions. Therefore, Applicants submit that Cheng neither discloses nor suggests an updater application process including, with the updater application, "receiving in the client environment update instructions associated with the one or more identified update scripts, and updating the updater application in the client environment from an earlier version to a new version by storing the received update instructions," as recited in claim 1.

For at least the foregoing reasons, claim 1 is believed to be patentable over Cheng.

Independent claims 29, 57 and 85 contain similar limitations as claim 1, and are believed to be patentable over Cheng for at least the foregoing reasons.

Johnson

Independent claim 28 was rejected under 35 U.S.C. § 102(e) as allegedly anticipated by Johnson (US Patent No. 6,904,592). Applicants submit that Johnson neither discloses nor suggests an updater application process including, with the updater application, "receiving in the client environment update instructions associated with the one or more identified update scripts, and updating the updater application in the client environment from an earlier version to a new version by storing the received update instructions," as recited in claim 28.

Johnson, as with Cheng, teaches updating at most software products with an updater application. Johnson discloses:

> A method for upgrading software at remote locations comprises uploading software upgrades to a portable computing device and conveying the portable computing device to the remote locations. The portable computing device ascertains the current software and hardware present at the remote location and installs the requested software upgrade if no incompatibilities are detected. Further, the portable computing device stores a record of what service was performed and what software is presently in existence at the remote location. The portable computing device communicates with a corporate computer the records so created and an accounting is performed (abstract)

In sum, Johnson teaches upgrading software products after determining the current software and hardware present at a remote location. A record of the service performed is recorded. Johnson, however, does not even teach a client-side updater application to perform these upgrades. Indeed, Johnson's updating process appears to be server-side controlled.

Moreover, not only does Johnson lack a client-side updater application to perform updating of software products, Johnson also fails to teach updating an updater application (see above for example given from Applicants' Specification). Therefore, Applicants submit that Johnson neither discloses nor suggests an updater application process including, with the updater application, "receiving in the client environment update instructions associated with the one or more identified update scripts, and updating the updater application in the client environment

from an earlier version to a new version by storing the received update instructions," as recited in claim 28.

For at least the foregoing reasons, claim 28 is believed to be patentable over Johnson.

Independent claims 28, 56, 84 and 85 contain similar limitations as claim 28, and are believed to be patentable over Johnson for at least the foregoing reasons.

Each of the dependent claims is also believed to define patentable features of the invention. Each dependent claim partakes of the novelty of its corresponding independent claim and, as such, has not been discussed specifically herein.

Conclusion

For the foregoing reasons, the applicant submits that all the claims are in condition for allowance.

By responding in the foregoing remarks only to particular positions taken by the examiner, the Applicants do not acquiesce with other positions that have not been explicitly addressed. In addition, the Applicants' arguments for the patentability of a claim should not be understood as implying that no other reasons for the patentability of that claim exist.

Please apply any charges to deposit account 06-1050, referencing Attorney Docket No. 07844-592001.

Respectfully submitted,

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